THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.27073 OF 2006

DATED 19th JANUARY, 2007

Between

T.Suryanarayana

... Petitioner

AND

The District Collector, Vizianagaram District, Vizianagaram and others.

.... Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.27073 OF 2006

ORDER:

The father of the petitioner and the fourth respondent are brothers. The fifth respondent is son of fourth respondent. It is the case of the petitioner that land admeasuring Acs.4.00 in survey No.532/2 situated at Srungavarapukota village in Vizianagaram District is allegedly owned by the father of the petitioner. It is stated that under an unregistered relinquishment deed, dated 22.06.1992, the fourth respondent relinquished his right in the subject land after accepting payment of Rs.2,00,000/- and thereafter some of the property was sold by petitioner's father. Be that as it is, the petitioner allegedly succeeded to the property and approached the third respondent for pattadar pass book and title deed (PPB/TD). They were given to the petitioner. At that stage, the fifth respondent filed a suit being O.S.No.172 of 2004 on the file of the Senior Civil Judge, Vizianagaram for partition, which is pending. Further, the fourth respondent submitted an application to third respondent for cancellation of PPB/TD issued to the petitioner but the Mandal Revenue Officer (MRO) submitted a report to the District Collector informing that the fourth respondent relinquished the right in favour of petitioner's father and therefore, no interference is necessary. Yet again, it appears the fourth respondent approached the Hon'ble Lok Ayakuta and gave complaint on 10.07.2006. The same was forwarded to the District Collector, who got the complaint enquired into by the MRO and did not

take any action. However, the second respondent issued a show cause notice on 09.11.2006 directing the petitioner to appear before him on 18.11.2006, the relevant records for enquiry. Aggrieved by this, the present writ petition is filed.

Learned counsel for the petitioner strenuously contends that when once the enquiry was conducted in November, 2005 and August, 2006 at the instance of the fourth respondent and MRO informed the District Collector that PPB was issued in favour of the petitioner after duly verifying the relinquishment deed and other documents. Again conducting an enquiry at the instance of the fifth respondent is arbitrary and illegal.

A perusal of the impugned show cause notice would show that the apprehension of the petitioner that there is likelihood of a dent in the title and possession of the petitioner is misconceived. Show cause notice is issued when a complaint was made by the fifth respondent that the petitioner obtained PPB fraudulently. When an allegation of fraud is made, it is the basic requirement of public authority to conduct enquiry before further initiating necessary action. Therefore, the pendency of the suit before the civil Court may preclude the Revenue Divisional Officer (RDO) from going to the question of title but certainly does not preclude the RDO as an appellate authority under A.P.Rights in Land and Pattadar Pass Books Act, 1971 to issue such show cause notice for conducting preliminary enquiry. The petitioner may approach the RDO and produce the PPB and whether relinquishment deed is validly executed by the fourth respondent in favour of T.V.K.Suryanarayana, the father of the petitioner. Further verifying the same, the respondents will take appropriate action. While doing so, the second respondent should keep in mind when a suit for partition is pending, ordinarily the revenue authorities cannot go into the validity or otherwise of the title and possession. These observations would safeguard the interest of the petitioner.

The writ petition with the above observations is accordingly dismissed as the same is filed against show cause notice. No costs.

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(V.V.S.RAO,J)

19.01.2007.
pln